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CLERK OF COURT - CIRCUIT

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

MIA DAVIS, as Administrator Ad Litem of the Estate of Monetta Davis, deceased, Plaintiff, v. NIKHIL GOPAL, M.D.; OKSANA DIDYUK, M.D.; and METHODIST HEALTHCARE – MEMPHIS HOSPITALS d/b/a METHODIST UNIVERSITY HOSPITAL, Defendants.	)	Case No.: CT-2954-26 Division I

DEFENDANT METHODIST HEALTHCARE - MEMPHIS HOSPITALS' CORRECTED MOTION TO DISMISS

Defendant Methodist Healthcare-Memphis Hospitals ("Methodist"), pursuant to Tenn. R. Civ. P. 12.02(6), moves to dismiss the Complaint on grounds that Plaintiff failed to comply with pre-suit notice requirements set forth in Tenn. Code Ann. § 29-26-121(a)(2)(E) by failing to provide HIPAA compliant authorizations to this Defendant with pre-suit notice letters sent to two provider entities on January 27, 2026 (Shelby County Healthcare Corporation, a/k/a "Regional One" or "Regional One Hospital") and March 17, 2026 (UT Regional One Physicians, a/k/a "UTROP").[1] This failure to provide Defendant with an opportunity to obtain potentially relevant

[1] Methodist's original Motion identified a potential provider, identified as such in Plaintiff's pre-suit notice letter, Epic Staffing Company as to which no HIPAA authorization was provided. Since the filing of the Motion, Plaintiff has subpoenaed records from Epic, which has confirmed it has none. Since the date of the original filing of this Motion, however, Methodist learned through the filings of a co-Defendant, Dr. Gopal, that Plaintiff also sent an authorization to UTROP, without sending Methodist a HIPAA compliant authorization for that entity. UTROP may or may not be a provider with medical records on this patient; it is not Methodist's burden to address that issue.

records from these entities deprived Defendant with a right provided under this statute and thus prejudiced Defendant, as more fully set forth in the Corrected Memorandum of Law filed with this Motion.

The January and March 2026 notices referenced in this Motion and Memorandum are attached to this Motion as well as to the Memorandum as Cumulative Exhibit One.[2] Neither entity named in the January 2026 notices were identified in the Complaint filed in this action as entities or providers receiving notice, contrary to the provisions of Tenn. Code Ann. § 29-26-121(b).

Since the effect of failing to provide proper pre-suit notice in this action removes the 120-day extension of time provided for the one-year statute of limitations applicable to this action and since Plaintiff filed this action more than one year after the dates of alleged negligence in the case, Methodist is entitled to dismissal of this case. Furthermore, since any attempt to refile the case would confront the same statute of limitations issues that necessitate dismissal here, the dismissal of this action should be with prejudice. To the extent necessary at this time, Methodist further seeks an award of attorneys' fees associated with any dismissal of this action pursuant to Tenn. Code Ann. § 20-12-119(c).

Methodist relies upon and incorporates the reasoning set forth in a separately submitted Memorandum of Law in further support of this Motion.

Respectfully submitted,

s/ Buckner Wellford
Buckner Wellford (#9687)
James McColgan (#18506)
Alex Hall (#34739)
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C.

[2] The UTROP pre-suit notice referenced above appears as Exhibit 5 to the Memorandum of Law in support of Motion to Dismiss filed by Dr. Gopal.

165 Madison Avenue, Suite 2000
Memphis, TN 38103
(901) 526-2000
bwellford@bakerdonelson.com
jmccolgan@bakerdonelson.com
ahall@bakerdonelson.com

Attorneys for Methodist Healthcare-Memphis Hospitals

CERTIFICATE OF SERVICE

I hereby certify that I have on this 26th day of August 2026, caused a copy of the foregoing to be served upon the following parties:

Afsoon Hagh, #028393
Hagh Law, PLLC
4117 Hillsboro Pike, 103-331
Nashville, TN 37215
Afsoon@haghlaw.com
(615) 566-0937

Attorney for Plaintiff

Alan S. Bean, (#026194)
Michael T. Scivley (#035464)
Kalen S. Early (#042902)
3000 Meridian Blvd., Suite 350
Franklin, TN 37067-6321
(615) 905-7200 – phone
(615)807-4802 – fax
abean@starneslaw.com
mscivley@starneslaw.com
kearly@starneslaw.com

Attorneys for Defendant, Oksana Didyuk, M.D.

Joe Clark (#18590)
Kent Francis (#34239)
Lewis Thomason
1 Commerce Sq. 29th Floor
40 South Main St.
Memphis, TN 38103
jclark@lewisthomason.com
kfrancis@lewisthomason.com

Attorney for Nikhil Gopal, M.D.

s/ Buckner Wellford
Buckner Wellford